

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 16090/PCT ge	FOR FURTHER ACTION	See Form PCT/IPEA/416																								
International application No. PCT/EP2004/006800	International filing date (day/month/year) 23.06.2004	Priority date (day/month/year) 26.06.2003																								
International Patent Classification (IPC) or national classification and IPC																										
Applicant FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E. V.																										
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>1</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																									
Name and mailing address of the IPEA/EP	Authorized officer																									
Facsimile No.	Telephone No.																									

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-15 _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. 2-23 _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* 1 _____ received by this Authority on 23.02.2005 with letter of 23.02.2005
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1/3-3/3 _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-23</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-23</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1-23</u>	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1) Reference is made to the following documents:			
D1: US-A-6 033 880 (NOREIKS RICHARD W ET AL)			
7 March 2000 (2000-03-07)			
D2: DE 101 44 925 A (FRAUNHOFER GES FORSCHUNG)			
27 March 2003 (2003-03-27)			
2) Document D1 is considered the prior art closest to the subject matter of the new claim 1 and discloses (the references between parentheses refer to that document):			
sample holding arrangement, in particular for the cryopreservation of at least one sample, said arrangement comprising: a bundle consisting of a number of tubular, flexible sample chambers (D1, figure 20, feature 228), and a retaining device, to which the bundle of sample chambers is connected, the retaining device being arranged in the longitudinal direction of the bundle (D1, figure 20, features 232 and 234).			
The subject matter of claim 1 thus differs from D1			

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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in that:

the retaining device has a plurality of holding frames which comprise frame parts for the suspended arrangement of the sample chambers.

The subject matter of claim 1 is thus novel (PCT Article 33(2)).

The solution to the problem as proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons: document D1 represents simply technical background for implementing a PCR procedure, but does not indicate or suggest any design for a sample holding device with sample chambers.

Claims 2-17 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

Claim 18 is also novel and involves an inventive step, *mutatis mutandis*.

Claims 19-23 are dependent on claim 18 and therefore likewise meet the PCT requirements for novelty and inventive step.

- 2.1) D2 also discloses a sample holding arrangement, in particular for the cryopreservation of at least one sample, said arrangement comprising: a bundle consisting of a number of tubular, flexible sample chambers (D2, figure 6, feature 615), and a

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retaining device, to which the bundle of sample chambers is connected, the retaining device for the suspended arrangement of the sample chambers being arranged in the longitudinal direction of the bundle (D1, figure 6, feature 627).

The subject matter of claim 1 thus differs from D2 in that:

the holding device has a plurality of holding frames.

The subject matter of claim 1 is thus novel (PCT Article 33(2)).

The current invention can therefore be considered to address the problem of improving ease of handling when loading the samples.

The solution to this problem as proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons: the plurality of holding frames improves ease of handling.